

**Senate Bill No. 512**

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Passed the Senate      August 23, 2004

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*Secretary of the Senate*

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Passed the Assembly      August 12, 2004

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Section 7655 of the Fish and Game Code, and to amend Sections 36700 and 36710 of the Public Resources Code, relating to marine resources.

## LEGISLATIVE COUNSEL'S DIGEST

SB 512, Figueroa. Marine resources: Pacific Fishery Management Council: Marine managed areas: state water quality protection areas.

(1) Existing law states that it is the policy of the state that the state be represented on the federal Pacific Fishery Management Council by representatives of those fisheries directly subject to the fishery management plans of the council. Existing law requires that special emphasis be made on the nominations and appointments to the council for a California commercial salmon troll fisherman, and, in order to assure a balanced representation on the council, representatives from the seafood processing industry, the commercial passenger carrying fishing industry, the groundfish fishery, and the coastal pelagic species fishery. Existing law requires that when the Governor makes a nomination for any seat on the council, the individual be knowledgeable of California's fishery resources and its fishing industry and needs. Existing law requires the nominations to be made after consultation with fishery organizations whose members are directly affected by the actions of the council.

This bill would state that it is the policy of the state that the state be represented on the council by persons knowledgeable about fisheries directly subject to the fishery management plans of the council. The bill would require that nominations and appointments to the council be a balanced representation of interested parties, including, but not limited to, the parties listed above and nongovernmental environmental organizations and marine scientists. The bill would delete the requirement that a person nominated by the Governor for a seat on the council be knowledgeable of the state's fishing needs. The bill would delete the requirement that the nominations be made after consultation with fishery organization members who are directly affected by the actions of the council, and, instead, would require the



nominations be made after consultation with fishery organizations and other interested parties, including parties representing the public's interest in the fishery resources and marine environment.

(2) Existing law establishes the Marine Managed Areas Improvement Act, which, among other things, prescribes 6 classifications for designating managed areas in the marine and estuarine environments to ensure the long-term ecological viability and biological productivity of marine ecosystems and to preserve cultural resources in the coastal sea, including state water quality protection areas. The act defines state water quality protection areas for the purposes of the act as including areas of special biological significance.

Existing law requires the State Water Resources Control Board to formulate and adopt, and review at least every 3 years, a water quality control plan for the ocean waters of the state known as the California Ocean Plan. An existing plan adopted by the state board, the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) establishes thermal requirements for coastal and interstate waters, and the bays and estuaries in the state.

This bill would specify that areas of special biological significance are a subset of state water quality protection areas and require special protection as determined by the state board pursuant to the California Ocean Plan and the California Thermal Plan.

(3) The Marine Managed Areas Improvement Act authorizes the state board and the California regional water quality control boards to take appropriate actions to protect state water quality protection areas. The act requires that, in a state water quality protection area, point source waste and thermal discharges be prohibited or limited by special conditions, and that nonpoint source pollution be controlled to the extent practicable.

This bill would, instead, require that waste discharges in a state water quality protection area be prohibited or limited by the imposition of special conditions in accordance with specified provisions of law.



*The people of the State of California do enact as follows:*

SECTION 1. Section 7655 of the Fish and Game Code is amended to read:

7655. (a) It is the policy of the State of California that the state be represented on the Pacific Fishery Management Council by people who are knowledgeable about fisheries directly subject to the fishery management plans of the council. Nominations and appointments to the Pacific Fishery Management Council shall be a balanced representation of interested parties, including, but not limited to, representatives from the commercial salmon troll fishery, the groundfish fishery, the coastal pelagic species fishery, the seafood processing industry, the commercial passenger carrying fishing industry, nongovernmental environmental organizations, and marine scientists.

(b) When the Governor nominates persons for any seat on the Pacific Fishery Management Council, those individuals shall be knowledgeable of California's fishery resources and its fishing industry. Further, the nominations may be made after consultation with fishery organizations and other interested parties, including parties representing the public's interest in the fishery resources and marine environment.

SEC. 2. Section 36700 of the Public Resources Code is amended to read:

36700. Six classifications for designating managed areas in the marine and estuarine environments are hereby established as described in this section, to become effective January 1, 2002. Where the term "marine" is used, it refers to both marine and estuarine areas. A geographic area may be designated under more than one classification.

(a) A "state marine reserve" is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for



scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(b) A “state marine park” is a nonterrestrial marine or estuarine area that is designated so the managing agency may provide opportunities for spiritual, scientific, educational, and recreational opportunities, as well as one or more of the following:

(1) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(2) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding representative or imperiled marine habitats or ecosystems.

(3) Preserve cultural objects of historical, archaeological, and scientific interest in marine areas.

(4) Preserve outstanding or unique geological features.

(c) A “state marine conservation area” is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(5) Preserve outstanding or unique geological features.

(6) Provide for sustainable living marine resource harvest.

(d) A “state marine cultural preservation area” is a nonterrestrial marine or estuarine area designated so the managing agency may preserve cultural objects or sites of historical, archaeological, or scientific interest in marine areas.

(e) A “state marine recreational management area” is a nonterrestrial marine or estuarine area designated so the managing agency may provide, limit, or restrict recreational opportunities to meet other than exclusively local needs while preserving basic resource values for present and future generations.

(f) A “state water quality protection area” is a nonterrestrial marine or estuarine area designated to protect marine species or



biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board through its water quality control planning process. “Areas of special biological significance” are a subset of state water quality protection areas, and require special protection as determined by the State Water Resources Control Board pursuant to the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the Water Code and pursuant to the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the state board.

SEC. 3. Section 36710 of the Public Resources Code is amended to read:

36710. (a) In a state marine reserve, it is unlawful to injure, damage, take, or possess any living geological, or cultural marine resource, except under a permit or specific authorization from the managing agency for research, restoration, or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Access and use for activities including, but not limited to, walking, swimming, boating, and diving may be restricted to protect marine resources. Research, restoration, and monitoring may be permitted by the managing agency. Educational activities and other forms of nonconsumptive human use may be permitted by the designating entity or managing agency in a manner consistent with the protection of all marine resources.

(b) In a state marine park, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial exploitation purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features may be restricted by the designating entity or managing agency. All other uses are allowed, including scientific collection with a permit, research, monitoring, and public recreation, including recreational harvest, unless otherwise restricted. Public use, enjoyment, and education



are encouraged, in a manner consistent with protecting resource values.

(c) In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes, that the designating entity or managing agency determines would compromise protection of the species of interest, natural community, habitat, or geological features. The designating entity or managing agency may permit research, education, and recreational activities, and certain commercial and recreational harvest of marine resources.

(d) In a state marine cultural preservation area, it is unlawful to damage, take, or possess any cultural marine resource. Complete integrity of the cultural resources shall be sought, and no structure or improvements that conflict with that integrity shall be permitted. No other use is restricted.

(e) In a state marine recreational management area, it is unlawful to perform any activity that, as determined by the designating entity or managing agency, would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted.

(f) In a state water quality protection area, waste discharges shall be prohibited or limited by the imposition of special conditions in accordance with the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) and implementing regulations, including, but not limited to, the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the Water Code and the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the state board. No other use is restricted.



Approved \_\_\_\_\_, 2004

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*Governor*

